



State of West Virginia
Office of the Attorney General

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Attorney General

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February 19, 2026

The Honorable Daniel M. James
Morgan County Prosecuting Attorney
77 Fairfax Street, Suite 301
Berkeley Springs, West Virginia 25411

Dear Prosecutor James:

You have asked for an Opinion of the Attorney General about whether Morgan County can enter into a mutual-aid agreement for reciprocal emergency medical services with a nearby, noncontiguous county, Fulton County, Pennsylvania.

We are issuing this Opinion under West Virginia Code § 5-3-2, which provides that the Attorney General “may consult with and advise the several prosecuting attorneys in matters relating to the official duties of their office.” When this Opinion relies on facts, it depends solely on the factual assertions in your correspondence and discussions with the Office of the Attorney General.

You explain that a tragic ATV accident occurred in Fulton County, Pennsylvania in December 2025. Fulton County emergency personnel asked Morgan County to assist; Morgan County EMS was nearby and could have responded quickly. But because Morgan County did not have a mutual-aid agreement—a contract allowing two counties to share EMS services—with Fulton County, it could not send EMS to the scene. The EMS provider that eventually responded was fifty miles away. A woman died. A child was seriously injured.

To avoid another situation like last December, the Morgan County Commission wants to execute a mutual-aid agreement with the appropriate entity in Fulton County. You plan for the agreement to require services to run both ways: from Morgan County to Fulton County and vice versa. Morgan County and Fulton County both have their own EMS providers.

Historically, however, Morgan County has entered into agreements of this type only with contiguous counties. Yet Morgan County does not border Fulton County. At the closest point, the two counties are only two miles apart. Washington County, Maryland intersects the two.

Given these unique geographic circumstances, your letter raises the following legal question:

Can either the Morgan County Commission or the Morgan County EMS provider enter into a mutual-aid agreement with Fulton County, Pennsylvania, a noncontiguous county?

Because Morgan County and Fulton County are not contiguous, we conclude that neither the Morgan County Commission nor the EMS provider can execute the mutual-aid agreement. West Virginia Code § 7-1-3i allows county commissions to enter into mutual-aid agreements with local governments in other states, but only if they share a “common border.” Likewise, Sections 15-5-9 and 16-4C-20 allow EMS providers to enter into agreements with entities outside the state, but only if those entities are in contiguous counties. Still, the Commissioner of the Bureau for Public Health can execute a mutual-aid agreement with Fulton County at Morgan County’s request.

DISCUSSION

County commissions are “created by statute, and possessed only of such powers as are expressly conferred by the Constitution and legislature, together with such as are reasonably and necessarily implied in the full and proper exercise of the powers so expressly given.” Syl. pt. 1, *State ex rel. State Line Sparkler of WV, Ltd. v. Teach*, 187 W. Va. 271, 418 S.E.2d 585 (1992) (citations omitted); *see generally* W. VA. CONST. art. IX, § 11 (“Powers of county commissions”). Thus, we start with the relevant statutes.

State law authorizes county commissions to enter into certain mutual-aid agreements—but only with a county in a contiguous state. Under West Virginia Code § 7-1-3i, county commissions in counties that “shar[e] a common border with any other state” can “enter into reciprocal agreements” with only subdivisions of “such other” bordering state for fire and EMS services. Although a preceding clause of the same statute seems to allow agreements for “any lawful purpose” with contiguous and non-contiguous governments alike, *id.*, this more general language would not trump the narrower language found in the EMS-specific provision, *see Robinson v. City of Bluefield*, 234 W. Va. 209, 214, 764 S.E.2d 740, 745 (2014) (“[S]pecific statutory language generally takes precedence over more general statutory provisions.” (citation omitted)).

Here, Morgan County does not “share a common border” with Pennsylvania. It borders only Maryland and Virginia, and it can enter cross-border agreements with counties only in those “such other” states. *See Such*, BLACK’S LAW DICTIONARY (12th ed. 2024) (“That or those; having just been mentioned”). Thus, its county commission cannot “enter into reciprocal agreements” for EMS services with Fulton County, Pennsylvania. W. VA. CODE § 7-1-3i.

Nor can the EMS providers enter this mutual-aid agreement. Two code sections apply, and both contain a contiguousness requirement.

First, Section 15-5-9(c) permits “the director of each local organization [for emergency services]” to “enter into mutual aid agreements” for “day-to-day mutual aid support for fire and

[EMS]” with entities in “bordering counties in contiguous states” only. Again, Morgan County, West Virginia and Fulton County, Pennsylvania are not “bordering counties in contiguous states.”

Second, Section 16-4C-20 authorizes EMS providers to enter “service reciprocity agreements ... [(1)] with the appropriate emergency medical service providers, county, municipal or other governmental units *or* [(2)] in counties contiguous to the state of West Virginia.” W. VA. CODE § 16-4C-20 (emphasis added). The statute contains a “disjunctive ‘or,’” so it “connotes an alternative between the two clauses it connects.” *State v. Rummer*, 189 W. Va. 369, 377, 432 S.E.2d 39, 47 (1993) (cleaned up). The second clause, allowing mutual-aid agreements “in counties contiguous to the state of West Virginia,” plainly does not apply. W. VA. CODE § 16-4C-20. The first clause isn’t an option, either. It covers only *intra*-state agreements. The Legislature expressly defined “[e]mergency medical service providers” and “[m]unicipal[ities]” as those located in West Virginia. *Id.* § 16-4C-3(i), (m). And applying the *ejusdem generis* and *noscitur a sociis* canons, we extend that same limitation to “county” and “governmental units.” *Id.* § 16-4C-20; *W. Va. Consol. Pub. Ret. Bd. v. Clark*, 245 W. Va. 510, 520, 859 S.E.2d 453, 463 (2021).

Thus, neither the Morgan County Commission nor the Morgan County EMS provider can enter into a mutual-aid agreement with Fulton County.

One potential avenue—aside from a legislative change to address the unique geographic circumstances in the Eastern Panhandle—remains available. The State “Commissioner of the Bureau for Public Health,” W. VA. CODE § 16-4C-3(c), can enter into service reciprocity agreements with “appropriate officials in other states” under Section 16-4C-20. Unlike county commissions and EMS providers, the statute does not geographically limit the Commissioner as to which service reciprocity agreements he may execute. Because of the unique geography of the eastern panhandle of the state—namely, Morgan County’s close proximity to Fulton County without the two counties being contiguous—and because a mass casualty event in either county may require dual dispatch of multiple nearby EMS units, a mutual-aid agreement between the two counties may be prudent. But the State Commissioner is the only person statutorily authorized to pursue it.

* * *

In short, we conclude that Morgan County cannot enter into a mutual-aid agreement for emergency services with Fulton County. But such an agreement may still be created if the West Virginia Commissioner of the Bureau for Public Health executes it with the appropriate official in Pennsylvania.

Sincerely,

A handwritten signature in black ink that reads "John B. McCuskey". The signature is written in a cursive style with a long, sweeping underline.

John B. McCuskey
West Virginia Attorney General

Holly J. Wilson
Principal Deputy Solicitor General